

Docket No. 2024730-7012562001
267/166 (01-434)**REMARKS****I. Lenker**

Claims 3, 4, 9, 29-37, and 40-48 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,980,554 (Lenker). Applicants respectfully note that in order to sustain a rejection under § 102, each of the claim elements must be found, either expressly or inherently, in the cited reference.

Claims 29 and 42 each recites a member having a first curvilinear portion and a linear portion that *lie approximately within a plane* when the member is in a relaxed configuration (Emphasis Added). Lenker does not disclose or suggest such a member. Rather, Lenker discloses a member having a loop portion 20r and a linear portion 28, with the plane of the loop portion forming a distinct angle with the linear portion (See figures 6, 7, and 12). As such, Lenker does not disclose or suggest the member recited in claims 29 and 42. According to the Office Action, figure 14 of Lenker allegedly discloses the member of claims 29 and 42. However, figure 14 illustrates a side view of a device, which has a loop 5d at an end and a linear portion. The loop 5d and the linear portion have a similar configuration as the devices of figures 6, 7, and 12, and therefore, do not actually lie approximately within a plane. The fact that the loop 5d and the linear portion in the device of figure 14 do not lie approximately within a plane is further evidenced from the mandrel of figure 9 that is used to form the device of figure 14. The mandrel has a right side 34 for forming the loop 5d, and a groove 32 for forming the linear portion, wherein the formed loop 5d and linear portion do not lie approximately within a plane. For at least the foregoing reasons, Applicants respectfully submit that claims 29 and 42, and their respective dependent claims, are allowable over Lenker.

Docket No. 2024730-7012562001
267/166 (01-434)

II. Kurz

Claims 2-4, 8, 9, 13, 29-31, 33-36, 40-44, and 46-48 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,136,015 (Kurz).

Claims 29 and 42 each recite a member having a curvilinear portion and a linear portion, an end segment of the curvilinear portion connecting to, and forming an angle with, the linear portion. Kurz does not disclose or suggest such a member. Rather, Kurz discloses a member having a curvilinear portion and a linear portion, with an end segment of the curvilinear portion being substantially parallel with the linear portion (See figures 1-5). In each of the figures 1-5 of Kurz, the end segment of the curvilinear portion clearly does not form an angle with the linear portion. For at least the foregoing reason, Applicants respectfully submit that claims 29 and 42, and their respective dependent claims, are allowable over Kurz.

Applicants further note that the "angle" limitation was added previously in the response dated December 28, 2004, in order to overcome Kurz, and that the Examiner has previously withdrawn the rejection under Kurz in view of Applicants' response. As such, Applicants do not understand the basis for the renewed claim rejections under Kurz in the current Office Action.

Docket No. 2024730-7012562001
267/166 (01-434)

CONCLUSION

Based on the foregoing, all remaining claims are believed allowable and a Notice of Allowance is respectfully requested. If, the Examiner has any questions or comments regarding this amendment, please contact the undersigned at the below-listed number.

Respectfully submitted,

Bingham McCutchen LLP

Dated: 10/7/05

By: 

Gerald Chan
Reg. No. 51,541

Bingham McCutchen LLP
Three Embarcadero Center
San Francisco, California 94111
phone (650) 849-4960
fax (650) 849-4800